

Application No. 09/083,410

REMARKS

By this Amendment, claim 1 is amended. Claims 1-31 are pending.

Favorable reconsideration is respectfully requested in view of the foregoing amendments and the following remarks.

Claims 1-31 stand rejected under 35 U.S.C. § 112, first paragraph, as lacking enablement in the specification. This rejection is respectfully traversed.

This rejection is based on the allegation by the Examiner that base claims 1 and 14 require division by zero, which is mathematically undefined and thus not enabled by applicants.

In response, applicants initially note that claim 14 appears to have been inadvertently rejected, as it does not include the following "inverse proportionality" language allegedly requiring division by zero:

wherein said measured intensity is inversely proportional to a number of base mismatches between said at least one nucleobase-containing target sequence and said antisense probes, over a range inclusive of 0 base mismatches through at least 3 base mismatches

Rather, original claim 14 recites:

wherein said measured intensity is proportional to a number of base mismatches between said at least one nucleobase-containing target sequence and said antisense probes, over a range inclusive of 0

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base mismatches through at least 3 base mismatches.

Claim 1 is amended to obviate this rejection in a manner similar to that employed to persuade Examiner Marschel to withdraw similar rejections in the parent applications.

Accordingly, reconsideration and withdrawal of the rejection of claims 1-31 under 35 U.S.C. § 112 are respectfully requested.

The rejection of claims 1-27 and 30-31 as being obvious over parent Patent No. 5,846,729 is obviated by the attached Terminal Disclaimer.

Accordingly, reconsideration and withdrawal of the obviousness-type double patenting rejection of claims 1-31 under 35 U.S.C. § 112 are respectfully requested.

For at least the reasons set forth above, it is respectfully submitted that the above-identified application is in condition for allowance. Favorable reconsideration and prompt allowance of the claims are respectfully requested.

Should the Examiner believe that anything further is desirable in order to place the application in even better condition for allowance, the Examiner is invited to contact applicants' undersigned attorney at the telephone number listed below.

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Please charge or credit our Account No. 03-0075 as necessary  
to effect entry and/or ensure consideration of this submission.

Respectfully submitted,

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FACSIMILE TRANSMISSION CERTIFICATION

I hereby certify that the foregoing Amendment and attached Terminal Disclaimer and Terminal Disclaimer Transmittal are being transmitted via facsimile to Examiner Ardin Marschel, Group Art Unit 1634, United States Patent and Trademark Office, at (703) 308-4242, on this 17th day of May, 1999.

  
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David M. Tener, Reg. No. 37,054